



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2023-0536]

RIN 1625-AA08

Special Local Regulation; Iron Man 70.3 Triathlon, Lake Erie; Sandusky, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish and enforce a special local regulation for the Ironman 70.3 Ohio Triathlon from 4:30 a.m. through 10 a.m. on July 23, 2023. This special local regulation is necessary to safely control vessel movements in the vicinity of the triathlon and provide for the safety of the general boating public and commercial shipping. During this enforcement period, no person or vessel may enter the regulated area without the permission of the Coast Guard Patrol Commander.

DATES: This special local regulation will be enforced from 4:30 a.m. through 10 a.m. on July 23, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0536 in the “SEARCH” box and click “SEARCH.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email the Command Duty Officer, MST1 Karl Dirksmeyer, Marine Safety Unit Toledo, Coast Guard; telephone (419) 392-0324, email D09-SMB-MSUToledo-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this special local regulation by July 23, 2023.

Under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this regulation would be impracticable.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Detroit (COTP) has determined that potential hazards associated with the Ironman 70.3 Ohio Triathlon on July 23, 2023, will be a safety concern within 400 yards of the Dock Channel from the Jackson Street Pier to the Shelby Street Boat Launch for five and a half hours. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters near the Jackson St. Pier, Sandusky, OH.

IV. Discussion of the Rule

This rule establishes a special local regulation from 4:30 a.m. through 10 a.m. on July 23, 2023. In light of the aforementioned hazards, the COTP has determined that a

special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass the following waterway: all U.S. navigable waters of Lake Erie within a 400 yard radius of the dock channel in Sandusky Bay in Sandusky, OH, between the Jackson Street Pier and the Shelby Street Boat Launch. The COTP or his designated on-scene representative will notify the public of the enforcement of this rule by all appropriate means, including a Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time-of-day of the special local regulation. Vessel traffic will not be able to safely transit around this regulated area which would impact a small designated area of Sandusky Bay for a short duration, during the morning when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism,

if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This special local regulation lasts five and one half hours that will prohibit entry within 400 yard radius of the Dock Channel in Sandusky Bay, between the Jackson Street Pier and the Shelby

Street Boat Launch. It is categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

2. Add § 100.T05-911 to read as follows:

§ 100.T05-911 Special Local Regulations; Ironman 70.3 Triathlon, Lake Erie; Sandusky Bay, OH

(a) *Location.* This special local regulation lasts 5.5 hours and will limit entry within the navigable waters of Sandusky Bay within a within a 400-yard radius of the Dock Channel between located at position 41° 27' 36.48" N, 082° 42' 54.84" W. and

41° 27' 25.05" N, 082° 43' 26.64" W All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Enforcement Period.* The regulation will be enforced from 4:30 a.m. through 10 a.m. on July 23, 2023. The Captain of the Port Detroit will announce specific enforcement periods by Broadcast Notice to Mariners (BNM).

(c) *Regulations.*

(1) In accordance with the general regulations in § 100.911(b), No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

Dated: July 13, 2023.

Richard P. Armstrong,
Captain, U.S. Coast Guard,
Captain of the Port Detroit.

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